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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,985	08/04/2003	Jonathan Levine	2081,156	2983

27522 7590 06/02/2004

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EXAMINER	
HARRELL, ROBERT B	

ART UNIT	PAPER NUMBER
2142	

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/632,985	LEVINE ET AL.	
	Examiner	Art Unit	
	Robert B. Harrell	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *8/4/03 et al*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *3/5/2004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☒ Other: *see attached Office Action*.

1. Claims 1-28 are presented for examination.

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

3. The specification must be updated with current U.S. Patent Number for United States Patent Application 09/492,090. The applicant is also advised to review the whole of the disclosure (textual, figure, and others) for accuracy as allowable subject matter is indicated herein.

4. The following is a quotation of 35 U.S.C. 101 that forms the basis for the rejections under this section made in this action:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title ["a patent" is in the singular]

5. The non-statutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); In re Van Ornam, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993), In re Berg 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998), 195 F.3d 1322, 1326, 52 USPQ2d (Fed. Cir. 1999), Eli Lilly CAFC (58 USPQ2d 1869).

6. A timely filed terminal disclaimer in compliance with 37 C.F.R. 1.321 (c)may be used to overcome an actual or provisional rejection based on a non-statutory based double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. 1.130(b). Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 C.F.R. 3.73(b).

7. Claims 1-28 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of United States Patent 6,732,159 Although the conflicting claims are not identical, they are not patentably distinct from each other because of the reasons set forth below.

8. Patent claim 1 contains every element of application claim 1 of the instant application and as such anticipates claim 1 of the instant application. Specifically, application claim 1 removes "keyboard", as found on line 3-et seq. of this application, from patent claim 1 and also "textual" as found on line 6-et seq. of this application from patent claim 1.

9. Other patent claims anticipate the application claims in the following set format (application claim, patent claim); (2,10), (3,2),(4,3),(5,4),(7,5),(8,6),(9,7),(10,8),(11,9),(12,11),(13,12, (14,13).(15,14),(16,15),(17,16),(18,17),(20,18),(21,19).(22,20), (23,21).

10. As to claim 24, such is anticipated by the combination of patent claims 1-11, with application claim 25 anticipated by patent claim 4 and application claim 26 anticipated by patent claim 3 each with the corresponding dependency as provided therein.

11. As to claims 6,19, and 27 not covered by patent claims, it is well known that ASCII represent 7x5 "bit map" for text (Official Notice taken)). Transmitting the 6 bit ASCII code rather then 35bits required to represent the same data would be obvious and logical as such would increase data traffic specifically in limited bandwidth communication links by a factor of almost 583%.

12. As to claim 28, such was anticipated by patent claim 1.

13. The above obviousness type double-patenting rejection should in no way infer a question of validity on 6,732,159 with respect to Powderly (US 6,732,067 B1) provided below, each issued on the same day, since the claims of this application are not "the same" (see Golight Inc. v. Wal-Mart Stores Inc. (69 USPQ2D 1481 (CAFC (January 20, 2004)))).

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

A person shall be entitled to a patent unless -

(e) the invention was described in-
(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a)

15. Claims 1-13, 15-28 are rejected under 35 U.S.C. 102 (e) as being anticipated by Powderly (US 6,732,067 B1).

16. Helpful citations to corresponding figures and text of Powderly are not required nor restrictive but as an aid to the reader reserving additional citations as required at a later date in time. In short, the whole of this reference is cited.

17. Per claim 1, Powderly taught an apparatus (eg., see Title) for administration of a PC-Server (eg., see figure 1 (14) and col. 3 (line 2)), the PC-Server having an architecture which outputs console data (eg., see figure 1 (46)) to a data bus (eg., see figure 1 (20)) for read and write functions to peripherals including a display adapter (eg., see col. 3 (lines 20-42) and col. 4 (lines 12-33)), and having an input interface, comprising:

(a) an adapter (eg., see figure 1 (18)) on the bus which emulates a display adapter to an extent necessary to receive display data from the PC-Server's bus (eg., see Abstract);
(b) means (eg., see figure 1 (26)) for extracting the display data from the adapter (eg., see col. 5 (lines 17-19));

(c) means (eg., see figure 1 (12 and 24)) for transmitting the display data to a remote user (eg., see figure 1 (16))(eg., see col. 5 (lines 19-27));
(d) means for receiving data from the remote user representing input commands to the PC-Server (eg. ,see col. 5 (lines 27-32)); and,
(e) means for transmitting input commands to, and compatible with, the PC-Server input interface (eg., see col. 5 (lines 34-48)).

18. Per claim 2, a "mode" was the claimed "form" as recited in col. 6 (lines 33-44).

19. Per claim 3 and 4, video RAM of figure 42 meets these claimed limitations per col. 4 (line 22) and col. 6 (line 28).

20. Per claim 5, see figure 1 (26) and col. 5 (lines 10-48).

21. Per claim 6, ASCII is transmitted rather then a 7x5bit (for example) graphical representation per col. 6 (lines 33-34).

22. Per claim 7, see col. 4 (lines 34-35).

23. Per claim 8, see col. 5 (lines 34-48).

24. Per claims 9-11, see figure 1 (46) and col. 5 (lines 36-39) (ie., DIN keyboard input was either from a serial cord of the keyboard or Infer Red keyboard (Official Notice Taken)).

25. Per claims 12 and 13, see figure 2 (far left top), col. 1 (lines 15-60), col. 9 (line 14) and the fact INT 13h was the software command for system reboot on Intel based computers.

26. Per claims 15-28, they do not teach or define above the correspondingly rejected claims 1-13 above and are thus also rejected for the same reasons given above.

27. *The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this office action:*

a) a patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter

sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

28. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103, examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligations under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. 102 (f) or (g) prior art under 35 U.S.C. 103.

29. Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable overly (US 6,732,067 B1) in view of Rakavy et al. (U.S. 5,978,912).

30. That which was anticipated was obvious. Thus Powderly covered claims 1-13 and 15-28 as indicated above. However, per claim 14, Powderly did not teach the cause of the "reset" in his second figure (very top left), or the composition of his server's operating system, only that there was such leaving one skilled in the art free to reset Powderly server system, having a similar operating system, in any manner well known in accordance with the teachings of Powderly col. 1 (lines 15-59) of which was known Rakavy who taught in figure 9 and col. 16 (lines 60-63) adding a hook in the operating system to strobe a watchdog timer monitored by an adapter card (NIC) to trigger a reset of the computer under remote control in the manner claimed in this application.

31. It would have been obvious to one skilled in the data processing art to have combined the teachings of these two references because they both were directed toward the problem of remotely controlling a computer over a network from another computer also located on the network. Also, Powderly clearly covered a system of the type of Rakavy in col. 1 (lines 15-59) of Powderly.

32. A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) days from the data of this letter. Failure to respond within the period for response

will cause the application to become abandoned (see MPEP 710.02, 710.02(b)).

33. Any inquiry concerning this communication or earlier\ communications from the examiner should be directed to Robert B. Harrell whose telephone number is (703) 305-9692. The examiner can normally be reached Monday thru Friday from 5:30 am to 2:00 pm and on weekends from 6:00 am to 12 noon Eastern Standard Time.

34. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack B. Harvey, can be reached on (703) 308-9705. The fax phone numbers for the Group are (703) 746-7238 for After-Final, (703) 746-7239 for Official Papers, and (703) 746-7240 for Non-Official and Draft papers.

35. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.

ROBERT B. HARRELL
PRIMARY EXAMINER
GROUP 2142